



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

8-11-87?

AUG 11 1987

P-7 SF
Dullanty &
Corigliano

REPLY TO
ATTN OF: S0-125

Mr. Richard C. Dullanty, Jr.
Attorney at Law
275 Paulsen Building
Spokane, WA 99201

Re: Superfund Site Investigation
N. 3322 Cook Street, Spokane

Dear Mr. Dullanty:

I am writing in response to your July 24, 1987 letter regarding the Environmental Protection Agency's (EPA) ongoing activities at the N. 3322 Cook Street junkyard and adjacent properties. This letter is also directed to you with respect to your personal ownership interest in what you informed me on July 22 was the Coriglianos' property. As you know, EPA is conducting a Superfund investigation and removal action at this property. EPA has also begun to notify all currently known responsible parties of their potential liability for the release or threat of release of hazardous substances.

The EPA has sent the Coriglianos under separate cover a formal notice of liability letter pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, 100 Stat. 9613. The agency has also mailed a similar letter to you, Michael Hemovich, and Joseph Nappi, since a preliminary title search has identified you as current owners of N. 3322 Cook Street as well as certain other adjacent properties which may be contaminated. Accordingly, as an owner of contaminated property, you are a responsible party under Superfund and should carefully consider your options with respect to EPA's cleanup.

The formal notice letter you receive should answer most of the questions raised in your July 24 letter regarding the cleanup. That letter also includes a request for information pursuant to federal law. A prompt and thorough response to that request will certainly assist EPA in deciding future courses of action with respect to the site.

Please be aware, however, that EPA may decide to complete the investigation and any necessary cleanup using monies from the federal Hazardous Substance Response Trust Fund. Upon the

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Richard C. Dullanty, Jr.
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completion of such activities, EPA may then seek to file an action against any responsible party to recover its costs of the investigation and cleanup. Liability for EPA's response costs at a site where there has been a release or a substantial threat of release of hazardous substances into the environment is joint, strict, and several for all responsible parties.

Although I understand your possible confusion over the EPA's response and investigation at the Corigliano site, EPA's activities are being undertaken pursuant to its authority contained in section 104 of CERCLA, 42 U.S.C. § 9604, and the agency is acting no differently than it does at any other similar hazardous waste site. A person's innocence with respect to contamination of a site is irrelevant to determining liability under section 107 of CERCLA, 42 U.S.C. § 9607, unless certain specific criteria are met. Moreover, such defenses to liability will only come into play upon the initiation of a cost-recovery action or execution of an administrative settlement or Consent Order.

I trust that the telephone conversation Jeff Webb and I had with you on July 24 answered your questions about the current situation at the site. EPA is still conducting the preliminary investigation and sampling for hazardous substances at and adjacent to N. 3322 Cook Street and N. 3601 Regal Street. Once the quantity of hazardous substances and degree of such contamination is known, EPA will determine the appropriate Superfund response, including possible removal and cleanup of hazardous substances from the site.

Finally, EPA does not agree with the additional paragraph you added to the access agreement which I mailed to you on July 22. Liability attaches for any EPA response actions taken pursuant to CERCLA and which are not inconsistent with the National Contingency Plan, 40 CFR Part 300 (1986). Access to the site cannot be conditioned on there being no financial liability to a responsible party. On the contrary, liability for the investigation and any ensuing cleanup accrues from the day of EPA's response at the site, in this case, July 16, 1987. EPA's authority is derived from federal law and, if necessary, may be confirmed by the issuance of a federal order or administrative warrant.

EPA is not, however, requiring you or the Coriglianos to admit to liability at this time, since such a determination must be made by a court or pursuant to an administrative Consent Order. Accordingly, EPA will assume that it continues to have voluntary

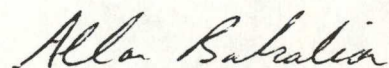
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access to perform its Superfund response activities at the N. 3322 Cook Street property unless you specifically notify EPA otherwise. I have enclosed a revised access forms for both you and the Coriglianos to separately sign, although failure to sign this agreement will not insulate you or the Coriglianos' from potential liability. It is EPA's position that the agency has voluntary access under the previously executed agreement with the exception of the purported disclaimer which has no legal effect under CERCLA's strict liability standard.

Because EPA's preliminary investigation of hazardous substance contamination at the site is nearly complete, it is imperative that you (individually and/or on behalf of the Coriglianos) quickly decide whether to participate in the investigation and cleanup of the site. The agency will listen to any good faith proposal for cleanup which will comply with CERCLA and the National Contingency Plan. It is of course up to you to initiate such a proposal and contact EPA.

I trust this clarifies EPA's legal authority and position with respect to the Superfund investigation and removal activities at N. 3322 Cook Street and adjacent properties. Should you have any questions or wish to set up a meeting to discuss EPA's removal and cleanup activities, please do not hesitate to call me at (206) 442-1789.

Sincerely,



Allan Bakalian
Assistant Regional Counsel

cc: Patrick and Michele Corigliano
Michael J. Hemovich, Esq.
Joseph Frank Nappi, Esq.

CONSENT FOR ACCESS TO PROPERTY

NAME: Patrick Corigliano

ADDRESS: N. 3322 Cook Street
Spokane, WA 99205

I hereby give my consent to the extent of whatever possessory interest I may have in the property and premises described above, and any appurtenances thereto, to officers, employees, authorized representatives and persons acting at the request of the United States Environmental Protection Agency (EPA) to enter for the following purposes:

1. To perform tasks necessary to inspect and sample for hazardous substances, and if necessary, to remove and prevent the further release of such hazardous substances into the environment. Such actions shall include, but are not limited to:

A. Sampling of soils and other materials or items located upon the site;

B. Sampling of the contents of any containers or tanks suspected to contain hazardous substances upon the site;

C. Sampling of surface and groundwater upon the site;

D. Sampling of materials or other items suspected to contain hazardous substances located with the residential premises upon the site, including the removal of such materials if necessary to perform laboratory testing;

E. Removal, cleanup, abatement, stabilization, mitigation or elimination of hazardous substances or any materials containing hazardous substances which present a threat to the public health or welfare or the environment; and

EPA ensures that upon completion of these sampling activities, all material and equipment will be removed from the

property and the property will be restored, as nearly as possible, to its original condition.

Consent is expressly not given at this time, to take any action which will cause Patrick Corigliano, or anyone else within ownership interest, to incur financial liability. To the extent consent for access is given via this document. It is entirely conditioned and contingent upon a representative of the Environmental Protection Agency getting prior notice to either Michele Corigliano, home telephone number (b)(6) work number (509)328-0550 or Richard C. Dullanty, Jr., acting under power-of-attorney at (b)(6) before taking any action for which the landowners will or are likely to bear financial responsibility on the part of those individuals with an ownership interest in the property. The purpose of this conditional consent is so that the Environmental Protection Agency will discuss reasonable financial alternatives with either of the above-named individuals.

DATED this 24th day of July, 1987.

COPY

Richard C. Dullanty, Jr.
Acting under Power-of-Attorney



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

REPLY TO
ATTN OF:

S0-125

Mr. Richard C. Dullanty
Attorney at Law
275 Paulson
Spokane, WA 99201

Re: Corigliano Site
North 3322 Cook Street, Spokane, WA

Dear Mr. Dullanty:

Pursuant to our telephone conversation today, I am enclosing the Environmental Protection Agency's (EPA) access agreement or consent for access form for your client, Mr. Pat Corigliano, to sign.

As you know, EPA is presently on site performing necessary removal actions under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), 42 U.S.C. §9601 et seq., as amended. EPA has further determined that there currently exists at the Carigliano site a threat to the public health, welfare or the environment due to the release or threat of release of hazardous substances into the environment. Access to the site is therefore necessary to abate, minimize, stabilize, mitigate, or eliminate the release or threat of release, or the threat resulting from that release or threat of release such hazardous substances.

Please ensure that the enclosed consent for access form is signed and the original returned to me at the above address. If you have any questions, you may contact me at (206) 442-1789. Thank you for your assistance in this matter.

Sincerely,

Allan Bakalian
Assistant Regional Counsel

CONSENT FOR ACCESS TO PROPERTY

NAME: Pat Corigliano

ADDRESS: North 3322 Cook Street
Spokane, Washington

I hereby give my consent to the extent of whatever possessory interest I may have in the property and premises described above, and any appurtenances thereto, to officers, employees, authorized representatives and persons acting at the request of the United States Environmental Protection Agency (EPA) to enter for the following purposes:

1. To perform tasks necessary to inspect and sample for hazardous substances, and if necessary, to remove and prevent the further release of such hazardous substances into the environment. Such actions shall include, but are not limited to:
 - A. Sampling of soils and other materials or items located upon the site;
 - B. Sampling of the contents of any containers or tanks suspected to contain hazardous substances upon the site;
 - C. Sampling of surface and groundwater upon the site;
 - D. Sampling of materials or other items suspected to contain hazardous substances located within the residential premises upon the site, including the removal of such materials if necessary to perform laboratory testing;
 - E. Removal, cleanup, abatement, stabilization, mitigation or elimination of hazardous substances or any materials containing hazardous substances which present a threat to the public health or welfare or the environment; and

EPA ensures that upon completion of these sampling activities, all material and equipment will be removed from the property and the property will be restored, as nearly as possible, to its original condition.

Date